

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE MIDDLE DISTRICT OF ALABAMA

3 EASTERN DIVISION

4
5 CIVIL ACTION NUMBER

6 3:05-CV-0741-M

7
8 BARRY BUCKHANON and RODNEY FRALEY,

9 Plaintiffs,

10 vs.

11 HUFF & ASSOCIATES CONSTRUCTION COMPANY,
12 INC.,

13 Defendant.

14
15 DEPOSITION TESTIMONY OF:

16 BARRY BUCKHANON

17
18
19 June 8, 2006

20 10:15 a.m.

21
22 COURT REPORTER:

23 Gwendolyn P. Timbie, CSR

COPY

EXHIBIT

B.

1 when he told you and Mr. Fraley that there
2 was some need for --

3 A He was -- he was a carpenter.

4 Q Do you know how long he had
5 worked for Huff?

6 A I'm not sure of that.

7 Q So he told you and Mr. Fraley
8 that Huff needed some more employees?

9 A Yes, sir, he did.

10 Q Did he tell you what job site
11 it was?

12 A Yes, sir.

13 Q And it was the KA house at
14 Auburn?

15 A Yes, sir, it was.

16 Q And so how did you get from
17 there to working for Huff? You said he
18 took you up there with him?

19 A Yeah. We rode to work every
20 day with Brad.

21 Q Did he take you and Mr. Fraley
22 up there after telling you that there was
23 some need for employees?

1 A Yes, sir, he did. Yes, sir,
2 he did.

3 Q Did you go straight to the KA
4 site?

5 A Yes, sir, we did.

6 Q Who did you talk to?

7 A Bobby. Bobby Myers.

8 Q Had you ever met Mr. Myers
9 before this day?

10 A No, sir, I didn't.

11 Q Did Mr. Connell tell you
12 anything about the job before you got
13 there?

14 A No. He did -- the only
15 thing -- he told us that he needed a
16 couple of laborers.

17 Q To help him?

18 A Sir?

19 Q To help Mr. Connell?

20 A Yeah. Yes, sir.

21 Q So when you got to the job
22 site, what day was this?

23 A I can't remember exactly the

1 date.

2 Q The documents that have been
3 produced in the lawsuit indicate that you
4 and Mr. Fraley started sometime around
5 June 1, 2004.

6 A Yes, sir.

7 Q Does that sound right to you?

8 A Yes, sir. Somewhere along in
9 there. Yes, sir.

10 Q And you had never worked for
11 Huff before then?

12 A No, sir. Never in my life.

13 Q So you and Connell and
14 Mr. Fraley showed up at the construction
15 site --

16 A Yes, sir.

17 Q -- one day --

18 A Yes, sir.

19 Q -- in June of 2004. And did
20 you have a chance to talk to Mr. Myers
21 that day?

22 A Yes, sir, we did.

23 Q Tell me about that.

1 A Well, when I first started --
2 first started and -- we got up there that
3 day, and he asked me and Rodney -- but I
4 explained to him -- I told him that I
5 couldn't -- I couldn't get up high. I
6 told him anything he wanted done on the
7 ground I could do and -- because I've got
8 a bad knee. But anything -- but he still
9 had me doing stuff up high, getting up on
10 scaffolds, on top of the building.

11 Q Let me back up. When you
12 talked to Mr. Myers that first day, did
13 he -- did you tell him what you could do
14 to help?

15 A Yes, sir.

16 Q What did you tell him?

17 A He -- well, when I first
18 started, he asked me -- he told me he was
19 just going to put me on cleanup; you know,
20 cleaning all the trash and stuff out from
21 around the building, cleaning out the
22 inside of the building. Because it was a
23 lot of different crews on the site. But

1 we had the job to clean -- keep everything
2 clean on the job site.

3 Q So instead of working with
4 Mr. Connell, you were assigned to kind of
5 site cleanup?

6 A Yes, sir.

7 Q All right. Who else was doing
8 that job?

9 A Me and Rodney, and sometimes
10 Mr. Connell helped. He was -- he was
11 running the tractor where we was putting
12 stuff in all around the building. And we,
13 like, kept the tractor and stuff loaded
14 and kept everything dumped to the
15 Dumpsters and things like that.

16 Q Was Mr. Connell actually a
17 Huff employee?

18 A Yes, sir, he was.

19 Q And how many workers were on
20 that job site when y'all first got there?

21 A Talking about just -- with our
22 crew?

23 Q Yeah.

1 A It was about -- probably about
2 five of us.

3 Q Now, when you say your crew,
4 you mean employed by Huff?

5 A Yes, sir. He had all us
6 working together right there, you know.

7 Q When you say "crew", though,
8 are you talking about cleanup crew or the
9 entire Huff group?

10 A Well, no. He had -- yeah.
11 Like, the carpenters and cleanup men. All
12 us kind of, you know, like, had all our
13 little section together. And they had,
14 you know, electricians and all that -- all
15 kind of different people was on the site.

16 Q Subcontractors; right?

17 A Yes, sir.

18 Q Who did not work for Huff;
19 right?

20 A Right.

21 Q Did you ever work with any of
22 the subcontractors?

23 A Well, we worked beside a lot

1 supervisors other than Mr. Myers that
2 first day?

3 A Not the first day.

4 Q Were there periodically other
5 supervisors on the site?

6 A Yes, it was.

7 Q Can you give me any names?

8 A Mr. Jimmy Langley.

9 Q What was his job?

10 A He was the supervisor over us.

11 Q Over who?

12 A Me and Rodney. When Mr. Myers
13 wasn't there, he was the head over us.

14 Q How often was Mr. Myers
15 absent?

16 A From time to time, he would be
17 out some because he had a lot of, you
18 know, health problems, and he'd have to go
19 out to have surgery and different kinds of
20 stuff like that.

21 Q Did you deal with any other
22 supervisors other than Mr. Langley and
23 Mr. Myers?

1 A No, sir.

2 Q Were there any other
3 supervisors on the site?

4 A I can't recall their names.
5 But every now and then he would be on the
6 job site.

7 Q What was this person's title?
8 Do you know?

9 A He was -- I believe he was the
10 architect. He was over the -- I think his
11 name was Quinton.

12 Q Quinton would be around
13 occasionally?

14 A Yeah.

15 Q And did you understand that
16 Quinton was an employee of Huff?

17 A Yes, sir.

18 Q Do you know whether Quinton
19 was Bobby Myers' supervisor?

20 A I believe so. I believe. He
21 had a thing -- yeah.

22 Q Did you understand that
23 Quinton was the project manager?

1 A Yeah. Yes, sir.

2 Q Now, Mr. Myers is white, isn't
3 he?

4 A Yes, sir. Yes, he is.

5 Q What is Quinton's race?

6 A He's white.

7 Q What about Mr. Langley?

8 A White.

9 Q What about Mr. Connell?

10 A White.

11 Q Do you know whether Brad
12 Connell still works for Huff?

13 A No, he don't.

14 Q Where does he work?

15 A He works with -- I can't --
16 port-a-toilets. Dumps -- cleans
17 port-a-toilets.

18 Q Where does he work?

19 A It's right over across the
20 river here.

21 Q Over in East Tallassee?

22 A Yes, sir.

23 Q Why did he leave Huff?

1 A They -- they constantly stayed
2 in a fuss with Mr. Myers. Him and
3 Mr. Myers.

4 Q Was he fired or did he quit?

5 A No. He quit.

6 Q Did he quit before or after
7 you?

8 A It was -- he quit --

9 Q I mean, did he quit before or
10 after you left the employment of Huff?

11 A He quit first.

12 Q How much did you work there
13 after he left?

14 A He probably worked there about
15 -- about another month probably, close to
16 a month.

17 Q So that means Mr. Connell
18 would have quit pretty soon after y'all
19 first got there; is that right?

20 A Excuse me?

21 Q You're saying you worked there
22 another month or so after Connell left?

23 A Yes, sir.

1 Q And it's your understanding
2 that he left that job because he and
3 Mr. Myers used to get crossways; right?

4 A Yes, sir.

5 Q About what?

6 A Always -- you know, Mr. Myers
7 would always kind of be cursing and
8 fussing, just something every day, every
9 single day.

10 Q Is that what you understand
11 led Mr. Connell to quit, though?

12 A Yes, sir.

13 Q Are you still friendly with
14 Mr. Connell?

15 A Sir?

16 Q Are you still friendly with
17 Mr. Connell?

18 A Yeah. I know him. You know,
19 I know him.

20 Q Do you see him around town?

21 A Yeah. I see him every now and
22 then. We don't -- we don't just talk on
23 an everyday basis, but I know him.

1 Q Did you ever have any reason
2 to go to the main Huff office over in
3 Opelika?

4 A No, sir, I didn't. But we
5 went there a couple of times to pick up
6 our checks, which then we'd probably be
7 with Mr. Langley or Mr. Myers or
8 something.

9 Q Did Mr. Myers ever provide
10 transportation for you?

11 A Yes, sir, he did.

12 Q Where?

13 A Sometimes he would pick us
14 up. Like, if Mr. Connell wasn't going to
15 work, Mr. Myers would be coming off from
16 down at his place. He'll swing by and
17 pick me and Mr. Fraley up and drop us off
18 in the evening.

19 Q How many times did that
20 happen?

21 A A couple of weeks.

22 Q So you told me a minute ago
23 you had a bad knee; right?

1 A Yes, sir.

2 Q Which knee is it?

3 A It's my right.

4 Q What's wrong with it?

5 A My knee -- my knee is out of
6 place, like up here (indicating), which it
7 hesitates for me to do a lot of climbing,
8 you know. But as far as work, my knee
9 don't bother me. I do my job.

10 Q How did you injure your knee?

11 A Football.

12 Q In school or just playing?

13 A No. In school. I played for
14 Tallassee High.

15 Q Did you ever have surgery on
16 that knee?

17 A No, sir, I haven't.

18 Q Did you tell Mr. Myers you had
19 a bad knee?

20 A Yes, sir, I did.

21 Q Did he say anything to you
22 about that?

23 A He asked me could I do the

1 ground job and all the low job. I said I
2 could.

3 Q So if you graduated from high
4 school in '96, your knee injury would have
5 been around for several years before you
6 went to Huff; right?

7 A Yes, sir.

8 Q So you were telling me earlier
9 that there was a discussion between you
10 and Mr. Myers about you not being able to
11 do heights because of your knee?

12 A Right.

13 Q And that at some point he had
14 you up on heights?

15 A Yes, sir. Some occasions I
16 did. I had to do it.

17 Q Why?

18 A We had -- well, we was -- we
19 was doing the other little house -- little
20 party house they had right beside the KA
21 house, and we had to fill -- fill -- we
22 had to bring a wheelbarrow up on top of
23 the -- what you call it -- scaffolds. And

1 we had to take the wheelbarrows up on the
2 scaffolds and fill in the holes and put in
3 mud. And we was high up off the ground;
4 real high. But that day we was kind of
5 short of help. We didn't have no help. I
6 didn't have no choice but to get up there
7 and help.

8 Q Did he ask you to get up there
9 and do it?

10 A Yes, he did.

11 Q And did you object?

12 A No, sir, I didn't.

13 Q Did you remind him you had a
14 bad knee?

15 A Yes, sir. But he told me to
16 get up there anyway.

17 Q What did he say?

18 A He told -- we was short on
19 help. He said I still had to get up there
20 and help them pour -- pour the holes, you
21 know. We was pouring concrete down
22 through the bars.

23 Q Were you able to do that job?

1 A Yes, sir, I done it.

2 Q Did you ever re-injure your
3 knee at Huff, on the Huff job site?

4 A No, I didn't. No, sir, I
5 didn't.

6 Q Now, in the charge --
7 discrimination charge that you filed in
8 this case, you claim that Mr. Myers used
9 racial slurs --

10 A Yes, sir.

11 Q -- in your presence.

12 A Yes, sir.

13 Q Tell me a little bit about
14 that.

15 A Well, one occasion that
16 happened, Mr. Myers had some moles took
17 off him. And this was on a Wednesday, I
18 believe.

19 Anyway, one Thursday -- I think --
20 no. It was on a Friday morning. We was
21 at the job site. We had just got on the
22 job site. And there was some guys
23 cleaning bricks, you know; spraying the

1 brick. And Mr. Langley, he was on his
2 radio -- you know, two-way radio, and he
3 beeped in. And me and Mr. Langley and
4 Mr. Fraley was standing out there. We was
5 cutting up boards. And Mr. Myers asked --
6 he asked Mr. Langley what was going on on
7 the job, how, you know, was everything
8 progressing. So he was -- he was on the
9 radio with him. The guy was going slow
10 cleaning the brick.

11 Q Who? What was his name?

12 A I don't know the guy. They
13 had some guys, you know, washing, you
14 know, the mud off the brick. Right. And
15 Mr. Myers said he -- he said he's not
16 going to put up with a bunch of niggers on
17 his job site.

18 Q Who did he say that to?

19 A He said that to Mr. Langley,
20 Mr. Jimmy Langley.

21 Q Did you hear him say that?

22 A Yes, sir, I did.

23 Q Where were you standing?

1 A I was standing right beside
2 Mr. Langley and Mr. Fraley. We was on the
3 saw horses.

4 Q And what was your
5 understanding of what made him say that?
6 I mean, who was he talking about?

7 A He just said -- he asked about
8 what all us was doing, and he asked what
9 the brick guy was doing when he was
10 cleaning brick. And he told him that --
11 Mr. Langley said, well, we all -- we was
12 putting up the little framing for the
13 doors, the door frames. And Mr. Langley
14 told him, said, we, you know, had a little
15 slow start. And he -- that's when --
16 that's when he said -- he asked something
17 about the guys that was spraying the
18 brick. He said, well, I'm not going to
19 put up with a bunch of niggers on my job.

20 Q And he said that to
21 Mr. Langley?

22 A That's right. On the two-way
23 radio. Mr. Myers was out. He had

1 surgery, getting moles off him.

2 Q I hear you. Did you hear
3 Mr. Myers -- were you standing by
4 Mr. Myers or Mr. Langley?

5 A I was standing beside
6 Mr. Langley. Mr. Myers wasn't on the
7 site. He was on his two-way radio.

8 Q So you heard it through the
9 two-way radio?

10 A Yes, sir, I did.

11 Q What did Mr. Langley say to
12 that -- in response to that?

13 A He kind of -- he kind of,
14 like, laughed -- he kind of, like, laughed
15 it off and told me and Mr. Fraley he was
16 just kidding.

17 Q All right. Was that the first
18 time you had heard Mr. Myers use racial
19 slurs?

20 A No, sir, it wasn't.

21 Q Tell me about the first time.

22 A One day we was -- we was
23 all -- me and Mr. Langley and Mr. Myers

1 was eating lunch. And we had a little
2 trailer we would go in and sit and eat
3 lunch sometimes. And we was -- we was
4 just sitting there, and all of us was
5 talking. And he told us -- he told us, he
6 said, y'all's kind don't know nothing.

7 Q What were you talking about?

8 A We were just sitting there
9 talking, you know, about jobs, working.
10 And he -- you know, sometimes he may ask
11 us could we do this or that. And then,
12 you know, we'd just be talking or joking,
13 and he'll make up all kind of remarks and
14 -- we're trying to work. You can't work
15 with nobody -- with somebody constantly
16 cursing you every day. I can't work
17 around nobody like that.

18 Q Specifically, what were y'all
19 talking about when he said, your kind
20 don't know nothing?

21 A We was sitting there
22 talking -- he was asking us something
23 about on the job, and we was sitting there

1 just talking. He said, all y'all kind
2 don't know nothing.

3 Q Who did he say that to?

4 A He said that to me and
5 Mr. Fraley. We was sitting there, and we
6 was just talking, in a conversation.

7 Q Was Jimmy there?

8 A And I asked him -- yeah.
9 Mr. Langley was sitting right there eating
10 his lunch too.

11 Q Anyone else hear --

12 A And I --

13 Q Anybody else hear that?
14 Anybody else present for that statement?

15 A No, sir. Just me,
16 Mr. Langley, Mr. Fraley, and Mr. Myers.

17 Q And this was during lunch one
18 day?

19 A Yes, sir.

20 Q On the job site?

21 A Right.

22 Q Did you or Mr. Fraley or
23 Mr. Langley say anything in response to

1 that statement?

2 A No. I just asked him what he
3 meant by that. He said, you know what I
4 mean.

5 Q And you said what?

6 A Sir?

7 Q Did you say anything else?

8 A No. I left it at that.

9 Q Did he say anything else about
10 what he meant by that?

11 A No.

12 Q And this was before the
13 statement that he made over the two-way
14 radio you told me about a minute ago?

15 A Yeah. This happened before
16 then.

17 Q What was Mr. Myers -- when he
18 said that about your kind don't know
19 nothing --

20 A Yes, sir.

21 Q -- what was his demeanor? I
22 mean, was he angry or just talking to you?

23 A I mean, sometimes he'd just

1 later. You know, we stayed until we got
2 the job done, like if we was pouring
3 concrete. Different times.

4 Q The conversation you were
5 telling me about a moment ago with
6 Mr. Fraley and Mr. Langley when he said,
7 your kind don't know anything --

8 A Yes, sir.

9 Q -- in that conversation did he
10 make any other derogatory statements about
11 any other employee or to any other
12 employee?

13 A No, sir. No, sir. Not that I
14 recall.

15 Q Did you ever hear Mr. Myers
16 make derogatory comments toward Hispanic
17 workers?

18 A Oh, yes, sir.

19 Q Like what?

20 A He'd say -- one day he told
21 them they don't know nothing. They need
22 to go back where they came from.

23 Q Do you understand -- have an

1 understanding of what prompted him to say
2 that?

3 A I don't know.

4 Q Do you know whether --

5 A I don't know.

6 Q Do you know whether someone
7 had mishandled some part of the job or
8 something?

9 A No, sir. Them guys was doing
10 their job, doing it hard.

11 Q You don't have any
12 understanding as to why he said that?

13 A No, sir, I don't.

14 Q How many Hispanic workers were
15 on that job site?

16 A Well, when we was working, he
17 hired two more -- two more Mexican guys.

18 Q Do you know their names?

19 A I don't remember their names
20 right now. No. I can't recall their
21 names.

22 Q So how many were there?

23 A It was two of them.

1 make derogatory comments to them?

2 A Yeah. He'll, like, you know,
3 get to fussing at them or hollering or
4 something if they ain't doing something
5 the exact way he wants it. And he'll
6 start fussing.

7 Q Did you ever hear --

8 A Get an attitude, get loud,
9 start hollering.

10 Q Did you ever hear Mr. Myers
11 make any racial slurs toward any of the
12 other black employees?

13 A No, sir. Not that I recall.
14 No, sir.

15 Q All right. Other than what
16 we've talked about, did you ever overhear
17 or witness Mr. Myers making any other
18 racial slurs or comments at all other than
19 what you already told me?

20 A No. Not that I recall.

21 Q Have you told me about all of
22 the racially derogatory slurs that you
23 heard Mr. Myers make during your time at

1 Huff?

2 A Yes, sir. He made them
3 plenty, but I -- that's all that I really
4 can think of.

5 Q Did you make any recordings or
6 notes about anything he said --

7 A No, sir.

8 Q -- at the time?

9 A No, sir.

10 Q Now, as I understand it, your
11 last day at Huff was Monday, July 26,
12 2004?

13 A Yes, sir. Right.

14 Q Tell me about the
15 circumstances that caused that to be your
16 last day.

17 A Well, one day -- on this
18 particular day, we was working down on the
19 party house, me and Mr. Fraley, Mr. Myers,
20 and the two Mexicans. And it started
21 coming up a real bad storm. It started
22 thundering and lightning. And we were --
23 had the cord ran on the outside because we

1 was drilling holes inside the building.
2 And it was raining and thundering and
3 lightning real bad. And so I told the
4 Mexican guys, I said, you need to get
5 down, and we need to put up the cord.

6 So when Mr. Myers came back around,
7 he asked us what in the hell we were doing
8 putting up the cords. And I said, it's
9 coming up a storm. I said, we need to get
10 out of the lightning. He said, you don't
11 get out of the lightning till I tell you
12 to. And he just went off, went off and
13 on.

14 And I told him, I said, I'm not
15 going to work -- work in the lightning
16 with -- around electricity. And he went
17 off on me and all that. And he told me,
18 he said, I'll tell you what. You just
19 stay -- you just stay at home tomorrow. I
20 said, fine.

21 So he dropped me off that evening,
22 and the next day he didn't pick me up. So
23 I know he picked Mr. Fraley up. He didn't

1 pick me up the next day. And --

2 Q Let me stop you real quick.
3 So after he said this, he drove you home
4 --

5 A Yeah.

6 Q -- back here in Tallassee?

7 A That's right.

8 Q Did he say anything else to
9 you on the way home about your position?

10 A No, sir. He didn't -- he just
11 told me to take tomorrow off. I asked
12 him -- I said, so I'm fired? He didn't --
13 he didn't say. He said, just stay at home
14 tomorrow. But he told Mr. Fraley the next
15 day that I was -- that I was fired.

16 Q And you said he didn't come
17 pick you up?

18 A Yeah. He didn't pick me up.

19 Q And then you later heard from
20 Mr. Fraley that --

21 A Yeah. He -- well, Mr. Fraley
22 told --

23 Q -- Mr. Myers told Mr. Fraley

1 that you were fired?

2 A Yes, sir. That's right. He
3 didn't come -- didn't tell me to my face.
4 He told him.

5 Q Did you ever go back to the
6 job site after that?

7 A No, sir. I don't call -- I
8 never went back.

9 Q Did you ever talk to Mr. Myers
10 again after that?

11 A No. Because I never went
12 back.

13 Q Well, did you talk to him on
14 the phone?

15 A No, sir. Never. Never said
16 another word to him.

17 Q Did he use any racial slurs
18 when y'all were talking about getting in
19 from the rain?

20 A No. No, sir. Not that I
21 recall. He just told us that we don't
22 put -- we don't put up cords until he
23 said -- he tells us.

1 Q Did anybody else witness that
2 conversation about getting in from the
3 rain other than you and Mr. Myers?

4 A The only people -- the only
5 people was there at that time -- because
6 when it started storming, everybody
7 started to leave the job site. You know,
8 when it comes a real bad storm, it's
9 thundering and lightning, everybody would
10 leave, you know, when we've got weather
11 like that. But nobody was there but me,
12 Mr. Fraley, Mr. Myers, and the two Mexican
13 guys, was the only guys there that
14 evening.

15 Q Did you ever talk with Quinton
16 about Mr. Myers' behavior?

17 A No, sir, I didn't.

18 Q Ever complain to Quinton?

19 A No, sir, I didn't.

20 Q Did you ever seek out anybody
21 else at Huff to discuss Mr. Myers'
22 behavior?

23 A No, sir, I didn't.

1 Q Did Mr. John Huff ever come to
2 the work site while you were there?

3 A Yes, sir. But I never talked
4 with him.

5 Q Did you know who he was when
6 he was on the site?

7 A Just by, you know, somebody
8 saying who he was, you know. I didn't
9 know him.

10 Q Can you give me the names of
11 any other people, other than you've told
12 me about, that would support the
13 allegations you've made in this lawsuit?

14 A Yes, sir. Mr. Jerry Garrett.

15 Q Jerry Garrett?

16 A Yes, sir.

17 Q Who is he?

18 A It's a guy -- one day we was
19 going back on -- on the site to pick up
20 our last check. And me and Rodney, we had
21 owed Mr. Myers five dollars apiece we had
22 borrowed from him one day during the week
23 for lunch. And he had our last checks.

1 A No, sir. Not that I can
2 recall.

3 Q Were you ever given any kind
4 of documents that discussed any part of
5 your employment with Huff?

6 A No, sir. Like I said, when we
7 first started, he gave us, like, an
8 application, you know, to fill out for the
9 tax -- tax purpose.

10 Q I think I asked you this. But
11 did you ever re-injure your knee?

12 A No, sir, I didn't.

13 Q Ever do anything to cause it
14 to hurt worse on the job?

15 A No, sir, I didn't.

16 Q Did you ever consider asking
17 Mr. Myers to reconsider letting you go?

18 A One -- one else -- when we
19 first started. And Mr. Connell was still
20 there. And me and him had got in a fuss
21 one day, and he had told me -- he had told
22 me, said, don't -- just leave and don't
23 come back. And the next day I came

1 back -- back on the job site, and I told
2 him, I said, I need to work, Mr. Myers.
3 And we, you know -- I said, I need my
4 job. And he let me came (sic) back to
5 work. He let me came (sic) back to work.

6 Q How long were you off the job?

7 A One day. That was it.

8 Q All right. Are you saying
9 that he let you go and then let you come
10 back?

11 A Yes, sir.

12 Q Mr. Myers --

13 A Yes, sir.

14 Q -- terminated you and let you
15 come back?

16 A Yes, sir, he did.

17 Q Well, after you were told by
18 him not to come back after that storm
19 issue -- remember?

20 A Yes, sir. That was it.

21 Q I understand. Did you ever
22 consider going back and trying to get your
23 job back?

1 Q And what was your rate of pay
2 at Huff?

3 A When I left -- at first we was
4 making about nine fifty, I believe.

5 Q What did you start at? Do you
6 know?

7 A He started us off with
8 eight -- eight fifty -- eight dollars. It
9 may have been eight dollars an hour, I
10 believe. Yeah. We was making eight, and
11 he moved us up to nine.

12 Q When?

13 A After we got to working. And
14 he told us if we progressed on our work
15 and showed improvement, he'll move us up
16 to nine dollars an hour. And he pushed us
17 up to nine dollars an hour.

18 Q A minute ago you said nine
19 fifty.

20 A Something like that.

21 Q Nine or nine fifty?

22 A Nine, nine fifty, something
23 like that. I know we got a raise.

1 Q When you say "he", are you
2 talking about Myers?

3 A Yes, sir. Mr. Myers gave us a
4 dollar raise.

5 Q Did you have any benefits
6 through that job other than just salary --
7 I mean, not salary, but pay?

8 A No. That's about all we had.

9 Q I mean, no health insurance?

10 A No. No, sir.

11 Q No other kinds of benefits?

12 A No, sir. I don't recall. No,
13 sir.

14 Q Have you ever had any kind of
15 benefits through Hilyer?

16 A No, sir.

17 Q All right. I think I'm about
18 through. Before I finish, can you think
19 of any other statements that Mr. Myers
20 made to you or in your presence?

21 A No, sir, not right now. I
22 don't recall at this time.

23 Q Is there anything else about

1 your claims that you consider to be
2 important that we haven't talked about?

3 A No, sir. Not at this time.
4 No, sir.

5 Q That's all. Thank you.

6 MR. BOWLES: I want to ask him
7 one or two questions.

8

9 EXAMINATION BY MR. BOWLES:

10 Q Mr. Buckhanon, you testified
11 about a conversation that took place when
12 you and Rodney Fraley and Mr. Myers and
13 one other employee -- I don't know if it
14 was Mr. Connell or Mr. Langley -- was
15 present where Mr. Myers said something to
16 the effect that, your kind don't know
17 anything.

18 A Yes, sir.

19 Q Do you remember that?

20 A Yes, sir.

21 Q Now, when you filed this claim
22 with EEOC, you stated that you overheard
23 Mr. Myers say, your kind don't know

1 anything; is that correct?

2 A Yes, sir. Yes, sir.

3 Q You go on to say in that same
4 conversation with Mr. Myers, and referring
5 to another black employee, said, niggers
6 like him don't know anything.

7 A Yeah.

8 Q Did he say that?

9 A That was me and Mr. Fraley.

10 Q Now, did Mr. Myers say those
11 words, niggers like him don't know
12 anything?

13 A Yes, sir. Yes, he did.

14 Q Who was he referring to?

15 A You're talking about when we
16 was outside?

17 Q I don't know.

18 A We was inside the trailer, and
19 that's when he -- that fact.

20 Q Did he say those words?

21 A Yes, sir, he did.

22 Q And were you and Mr. Fraley
23 sitting there listening to him?

1 A Yeah. We ate lunch just about
2 every day together, me, Mr. Fraley, and
3 Mr. Myers and Mr. Langley.

4 Q Who was Mr. Myers referring to
5 when he said, niggers like him don't know
6 anything?

7 A Like, y'all. He committed to
8 say, like y'all.

9 Q Like y'all? He was talking
10 about you and Rodney?

11 A Yeah.

12 MR. BOWLES: That's all.

13

14 FURTHER EXAMINATION BY MR. WILSON:

15 Q When he made that comment,
16 though, he wasn't saying -- he didn't say
17 it in reference to you?

18 A No. He said "y'all". He put
19 it "y'all".

20 Q That's not what this sworn
21 statement says. Do you want to take a
22 look at it? Look down at the bottom of
23 the paragraph.

1 MR. BOWLES: I think it goes
2 over to the second page.

3 MR. WILSON: It does. It
4 does.

5 A It says him right there.

6 Q Right. In that latter quote
7 that you put in your sworn statement to
8 the EEOC, it says, niggers like him don't
9 know anything.

10 A Right.

11 Q Now, Mr. Bowles was wanting to
12 know, I think, who he was talking about.

13 A He was talking -- he was
14 referring to us because wasn't nobody in
15 the room but me, Mr. Myers, Mr. Fraley,
16 and Mr. Langley.

17 Q Right here where it says,
18 niggers like him don't know anything, who
19 is "him"?

20 A He was quoting to me and
21 Mr. Fraley. Wasn't nobody else there but
22 me and Mr. Fraley.

23 Q I understand he was making the

1 statement in your presence.

2 A Right.

3 Q But who was he talking about?

4 Who was the "him" in this statement?

5 A The only person he ever made
6 comments to was me and Mr. Fraley.

7 Q About who, though?

8 A About who?

9 Q Yeah. It says -- your
10 statement that you signed says, Mr. Myers,
11 in referring to another black employee,
12 said, quote, niggers like him don't know
13 anything.

14 A No. He was talking -- he was
15 talking about me and Fraley --
16 Mr. Fraley. We're the only ones that he
17 ever talked to really. Like, when we had
18 lunch, he'll come up with all kind of
19 conversations talking to me and
20 Mr. Fraley.

21 Q What had you and Mr. Fraley
22 done to make him say that y'all didn't
23 know anything?

1 A It just -- different days.
2 Like, we'd be at work. And, like, we'd be
3 at lunch. He'll be talking about stuff
4 that we have been doing all day. And then
5 he'll tell us we don't know how to do such
6 and such things. And we might come up and
7 say, yes, we do know how to do this. And
8 he might come back with a statement of
9 saying we don't know -- you know, we don't
10 know how to do nothing. He always said,
11 y'all are dumb, stupid, all that kind of
12 stuff like that.

13 Q If I understand you correctly,
14 he'd make similar statements to the other
15 employees?

16 A Not every -- not everybody
17 every day. And Mr. Connell, he gets on
18 him sometimes. And he cusses anybody out;
19 any electric guys, any of them on the
20 job. If he come in there, he'll holler
21 and fuss and cuss. He did it every single
22 day.

23 Q And he did it to the Hispanic

1 employees?

2 A Yes.

3 Q And the white employees?

4 A That's right. But he just be
5 cussing. Sometimes he'd just come in.
6 And I don't know why he did it, but he did
7 it.

8 Q But in terms of racial slurs,
9 use of the "N" word, things like that --

10 A That's right.

11 Q -- you heard him one time over
12 the two-way radio make that statement we
13 talked about earlier?

14 A Yes, sir.

15 Q You were standing there with
16 Jimmy Langley; right?

17 A Yeah.

18 Q All right. And then --

19 A And in the trailer.

20 Q Yeah. Right. And then a
21 second occasion in the trailer when you
22 and Mr. Myers --

23 A And Mr. Fraley.

1 day and we didn't do it right or, you
2 know, just different kind of stuff. He'll
3 get to talking about it. And if we're
4 saying something about it, he'll get mad
5 and get to cussing and fussing about it.

6 Q I understand what you're
7 saying. What I'm trying to make sure I
8 understand is, the racial slurs that you
9 heard was the one over --

10 A Yes, sir.

11 Q The only ones you heard --

12 MR. BOWLES: Let him finish
13 the question before you go to answer it.

14 Q You heard the statement he
15 made over the two-way radio to Jimmy
16 Langley?

17 A Right.

18 Q And he wasn't talking about
19 you when he made that statement, was he?
20 He was talking about somebody washing a
21 wall?

22 A No. That's meaning to
23 everybody that was on the job. He said,

1 I'm not going to put up with a bunch of
2 niggers on my job.

3 Q Did he even know you were
4 standing there?

5 A He didn't know we was there.
6 That's the point.

7 Q He made that statement over a
8 two-way radio to Mr. Langley; right?

9 A That's right.

10 Q And then there is one other
11 occasion where you heard him use racial
12 slurs, and that was in the trailer where
13 y'all were eating lunch together?

14 A That's right.

15 Q That's it?

16 A Yes, sir.

17 MR. WILSON: That's all.

18 MR. BOWLES: Nothing further.

19

20 FURTHER DEPONENT SAITH NOT

21

22

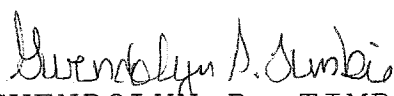
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C E R T I F I C A T E

STATE OF ALABAMA)
MONTGOMERY COUNTY)

I hereby certify that the above
and foregoing deposition was taken down by
me in stenotype, and the questions and
answers thereto were transcribed by means
of computer-aided transcription, and that
the foregoing represents a true and
correct transcript of the deposition given
by said witness upon said hearing.

I further certify that I am
neither of counsel nor of kin to the
parties to the action, nor am I in anywise
interested in the result of said cause.


GWENDOLYN P. TIMBIE, CSR
Certificate No: AL-CSR-569

My Commission Expires
March 4, 2009